

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

ALEXANDER KONSTANTINOVICH  
TVERDOKHLEBOV,

Defendant.

CRIMINAL NO.: 1:17-CR-9

**GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION TO COMPEL  
PRODUCTION OF TRANSCRIPT**

The issue before the Court is whether the Government should bear the cost of a defendant's preferred form of discovery; because the Government has fulfilled its discovery obligations, the Government asks that the Court deny the defendant's motion.

On February 10, 2017, the Government provided a DVD recording of the defendant's post-arrest interview to the defense. Defense counsel subsequently requested that the Government pay for the transcription of that recording. The Government informed defense counsel that no transcript was in existence and that, pursuant to office guidelines, the Government generally does not obtain transcriptions of recordings until closer to trial, at which point the Government would be in a position to provide copies of such transcripts to the defense. On February 22, 2017, the defense filed its motion to compel the Government to produce and pay for a transcript of the recorded post-arrest interview. *See* Dkt. No. 25.

Under Rule 16 of the Rules of Federal Criminal Procedure, if a transcript is in existence at the time that the defendant makes his discovery request, production may be required, because the transcript may contain a "relevant . . . recorded statement [made] by the defendant," Fed. R. Crim.

P. 16(a)(1)(B)(i), or constitute a “written record containing the substance of any relevant oral statement made before or after arrest,” Fed. R. Crim. P. 16(a)(1)(B)(ii). Here, there is no transcript of the recording in question and the Government has already produced the recording in its existing form to the defense. Moreover, the defense is entitled to obtain transcription services at its own expense. The Government, therefore, requests that the Court deny the defendant’s motion.

Respectfully submitted,

Dana J. Boente  
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February 22, 2017

**Certificate of Service**

I hereby certify that on February 22, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to at least the following registered ECF user:

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